

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is entered into this ____ day of _____ 2003 by and between the State of Hawaii and the North West CruiseShip Association, hereinafter referred to as NWCA, representing Carnival Cruise Lines, Celebrity Cruises, Crystal Cruises, Holland America Line, Norwegian Cruise Line, Princess Cruises, Royal Caribbean International, [World Explorer,] Radisson Seven Seas and [Seabourn] Silversea Cruises, as representatives of the Cruise Industry in Hawaii.

Whereas the State of Hawaii is charged with the responsibility of protecting and conserving Hawaii's environmental resources in relation to the Cruise Industry's environmental practices in Hawaii; and

Whereas, the NWCA is a non-profit entity organized for the purpose of representing member cruise lines which operate in and about Hawaii, whose current membership is identified in ***Appendix I***; and

Whereas, the NWCA has adopted the **"Cruise Industry Waste Management Practices and Procedures"** as promulgated by the Cruise Industry's trade association, the International Council of Cruise Lines, herein referred to as ICCL, which practices and procedures are attached hereto as ***Appendix II***; and

Whereas, NWCA cruise vessels operate in international waters and move passengers to destinations worldwide and, consequently, those cruise vessel waste management practices must take into account environmental laws and regulations in many jurisdictions and international treaties and conventions; and

Whereas, the NWCA and the State of Hawaii have met to develop waste management practices that preserve a clean and healthy environment and demonstrate the Cruise Industry's commitment to be a steward of the environment; and

Whereas, research is ongoing to establish the impact of ships' wastewater discharges on the ocean environment, and the results of this research will be taken into account in periodic review of the wastewater discharge practices described in this memorandum of understanding; and

Whereas, the cruise industry recognizes Hawaii's fragile marine environment and is committed to help protect this environment by being proactive in other areas, including oil spill planning and response. It is recognized that all cruise ships have a Shipboard Oil Pollution Emergency Plan (SOPEP) that meets the requirements of MARPOL for spill response world-wide. In support of their commitment, all cruise ships of the North West CruiseShip Association will have an appendix added to their SOPEP to list spill contractors and incident management team resources for response in waters near and around Hawaii.

Now therefore, based upon mutual understanding, the parties enter into this Memorandum of Understanding to implement the following environmental goals, policies and practices.

Definition of terms for the purpose of this agreement:

"air emissions" refers to the airborne releases associated with the operation of the vessel;

"blackwater" means waste from toilets, urinals, medical sinks and other similar facilities;

"cruise ship" means any vessel that is owned or operated by a member of the NWCA;

"garbage" means solid galley waste, paper, rags, plastics, glass, metal, bottles, crockery, junk or similar refuse;

"graywater" includes drainage from dishwasher, shower, laundry, bath and washbasin drains;

"Hawaii marine areas" means those waters between the shoreline of the Hawaiian Islands and any point 4 nautical miles beyond the 100 fathom contour line as illustrated in Appendix III;

1. The State of Hawaii accepts the ICCL Industry Standard E-01 -01, titled ***Cruise Industry Waste Management Practices and Procedures (Appendix II)*** as ICCL member policy in the management of solid waste, hazardous wastes and wastewaters. In addition to the ICCL Practices, the members of NWCA operating in Hawaii agree to comply with the following unique practices among the Hawaiian Islands:

1.1 Wastewater Management

In recognition of the sensitive nature of Hawaii's marine environment, the NWCA agrees to prohibit the discharge of untreated black water, treated black water or gray water within the Hawaii marine areas as defined above. (***Appendix III***).

Exception from this prohibition is as follows:

If the effluent from an advanced wastewater treatment system on board a ship meets standards for continuous discharge as set under federal Law - Title XIV - Certain Alaskan Cruise Ship Operations, Section 1404 Limitations on Discharge of Treated Sewage or Graywater, Subsection (c) (1), (2), (3), (4) (***Appendix VII***), the effluent from such advanced wastewater treatment systems may be discharged in the Hawaii marine areas while the ship maintains a minimum speed of six knots and while the ship is more than one nautical mile from shore.

Prior to the discharge of effluent by a ship utilizing an advanced treatment system in the situation described above, the cruise ship company must first provide to the

State of Hawaii test results as are required under the above referenced federal law to verify that the system meets or exceeds the federal law standards as described.

The NWCA and the State of Hawaii will continue discussions to determine whether maintaining these restrictions on advanced wastewater treatment systems is consistent with best available scientific information on the environmental effects of the discharges.

The NWCA member lines will maintain records of wastewater discharge in the Hawaiian marine areas. Upon any incident of non-compliance with the MOU, the member line will provide the State, within 10 working days, with a report to include copies of the related logbook records covering the period of operation in the Hawaiian marine areas. Reports will include the dates, times, locations and volume or flow rates of any discharge of wastewater, including treated and untreated blackwater and graywater, into the Hawaiian marine areas. In addition the member lines will respond within 21 working days to requests from the State Department of Health for further information regarding wastewater discharges.

1.2 Solid Waste, Hazardous Waste Management:

The NWCA has adopted the ICCL policy guidelines as stipulated above. NWCA Ships sailing in Hawaiian [waters] marine areas will comply with these policies and best practices as presented in these standards. *(Appendix II)*

NWCA member ships operating in Hawaiian [waters] marine areas will eliminate, to the maximum extent possible, the disposal of wastes described under MARPOL Annex V into the marine environment through improved reuse and recycling opportunities. Where reuse and recycling are not feasible, waste will be discharged into the marine environment only if it has been properly processed and can be discharged in accordance with MARPOL, the ICCL best management practices, and other prevailing requirements. Whenever a member ship offloads solid waste in Hawaii, it shall ensure that such offloading be done in compliance with all state and local laws.

1.3 Air Emissions

1.3.1 NWCA members agree that their ships will not use their incinerators in any Hawaiian ports for the combustion of any waste materials.

1.3.2 NWCA members agree to limit visible emissions, excluding condensed water vapor, as follows:

Ships will not exceed 20% opacity for periods of time exceeding 6 minutes in any 60-minute period (Continuous emission monitor or EPA Method 9) except for the following:

- a. When the ship is maneuvering to or from the dock or anchor,¹
- b. In the event of a navigational or safety concern on the ship,
- c. When an equipment failure occurs². In the case of an equipment failure, the cruise line will upon request, provide information to the State that describes the subject equipment, the malfunction, the corrective actions taken and the start and end times of the malfunctioning period.

Note:

Depending on current, wind and port congestion, it may be necessary to have full engine capacity on standby to assure safe port navigation or compensate for equipment failure. In such cases of full engine deployment and low engine loads, higher than normal particulate emissions can result.

- 1.3.3 NWCA ships will have opacity-metering and recording capability and will continuously monitor the stack's visible emissions while sailing in Hawaiian waters.
- 1.3.4 The State of Hawaii recognizes that, as of the execution of this memorandum, there are no Cruise Steamships plying the waters of Hawaii. Notwithstanding the foregoing, NWCA members agree that they shall not discharge soot within 1,000 yards of the Hawaii coastline. Cruise Steamships shall not cause or permit the discharge if it would have been practical to emit the discharge before or after leaving land or if an alternative method could have been employed.
- 1.3.5 The NWCA member ships generally take on fuel in California, British Columbia, and Hawaii ports. The sulfur content of the fuel currently available at these locations is less than 2.8% by weight. It is the intent of the member cruise lines to continue to bunker their ships in these ports with fuel with a sulfur content of less than 2.8% by weight. If such fuel becomes unavailable in

¹ Maneuvering is defined for the purpose of this MOU as: On departure from the dock or anchorage, maneuvering will commence with the startup of the additional engines required for safe ship handling on its departure from the dock or anchor. It will cease once the ship has established its course and speed towards the open sea and is clear of the last port navigational markers. On arrival, maneuvering will commence when the engine configuration for entering the port has been set by the Captain. It may call for additional engines to assure adequate power to allow for safe ship handling during docking procedures, or anchoring, and will cease when the ship is safely secured to the dock, or at anchor, and the additional engines are shut down.

² Equipment failure (for example – boiler, engine injector or turbo failure) can cause periodic excess particulate matter. Some discretion from the visual emission standards is allowed if the failure has occurred on the current or previous voyage, as long as the repairs are waiting for either technical support or a critical spare part.

those ports, or is unavailable for any NWCA ship coming to Hawaii from other ports, the ship will advise the State of Hawaii Department of Health in writing.

2. The State of Hawaii acknowledges that the waste management practices and procedures referenced and/or contained in section 1 above meet or exceed the standards set forth in Hawaii laws and applicable Hawaii regulations as pertaining to ship operations.
3. The State of Hawaii and the NWCA understand that the U.S. Coast Guard (USCG) has Federal jurisdiction over environmental matters in navigable waterways in the United States and conducts passenger ship examinations that include review of environmental systems, Safety Management System (SMS) documentation and such MARPOL-mandated documents as the Oil Record Book and the Garbage Record Book. Additionally, NWCA member cruise vessels will integrate such industry standards into SMS documentation that ensure compliance through statutorily required internal and third party audits.
4. The USCG has developed guidelines relating to the inspection of waste management practices and procedures, which have been adopted by the cruise industry. The State of Hawaii accepts the USCG Navigation and Vessel Inspection Circular and Environmental Systems Checklist (**Appendix IV**), which will be incorporated into USCG 840 Guidebook as the procedure to conduct waste management inspections on board cruise vessels. [To reduce administrative burden on the cruise ship industry, the State of Hawaii agrees to first request from the USCG any records for cruise vessels entering Hawaii territorial waters. Should records described above not be made available by the USCG, the cruise ship will provide them to the State.]
5. The ICCL in consultation with NWCA is working with the Environmental Protection Agency (EPA) to develop a national practice for the assigning of an EPA Identification Number to the generator of hazardous wastes, which recognizes the multi-jurisdictional itineraries of a cruise vessel. Conceptually, the EPA has agreed that issuing a national identification number to cruise vessels operating in the U.S. is an acceptable procedure. EPA also proposes that the state where company offices are located may issue the national identification numbers provided the criteria and information submitted required for obtaining the number is standard for the United States. The State of Hawaii and NWCA agree to a uniform application procedure for the EPA national identification number in accordance with the Resource Conservation Recovery Act (RCRA) (**Appendix V**). The State of Hawaii shall have the right to inspect all such records upon written request to the cruise vessel operator. The State of Hawaii recognizes that in some cases EPA Identification Numbers may not be required under federal law because of the small amounts of waste generated.
6. The NWCA has adopted a uniform procedure for the application of RCRA to cruise vessels entering Hawaii (**Appendix VI**). The State of Hawaii accepts this procedure as the appropriate process for vendor selection and management of hazardous wastes in Hawaii. NWCA member lines agree to provide an annual report regarding the total hazardous waste offloaded in Hawaii by each cruise vessel.

- 7.** The State of Hawaii and NWCA agree that all records required by RCRA for cruise vessels entering Hawaii territorial waters shall be available to the State of Hawaii upon written request to the cruise vessel operator.
- 8.** The State of Hawaii recognizes that waste management practices are undergoing constant assessment and evaluation by cruise industry members. It is understood by the STATE OF HAWAII and the NWCA that the management of waste streams will be an on-going process, which has as its stated objectives both waste minimization and pollution prevention. Consequently, all parties agree to continue to work with each other in good faith to achieve the stated objectives. This may require additional meetings with federal regulators to discuss specific issues applicable to the cruise industry in the U.S.
- 9.** The NWCA acknowledges that its operating practices are required to comply with the applicable provisions of the Marine Mammal Protection Act and the Invasive Species Act.
- 10.** The NWCA member lines in support of a commitment to maintain high levels of readiness for response to ship casualties, including oil spills, will review their response procedures with the State. The NWCA will conduct regular spill response exercises in cooperation with the State and the US Coast Guard, actively participate in the Hawaii Area Committee³ and conduct a risk analysis in cooperation with the State to ensure that all parties are capable of adequately responding to an oil spill emergency.
- 11.** The State of Hawaii agrees that the performance required by the NWCA under the terms of this Memorandum of Understanding shall be directed only to its member cruise lines. The NWCA acknowledges that its members operate cruise vessels engaged in cruise itineraries greater than one day duration; and further that its members do not operate one-day attraction ships or casino gambling ships.
- 12.** All parties acknowledge that ongoing discussions of environmental goals are recognized as a necessary component to the successful implementation of management practices for waste minimization and reduction.
- 13.** All parties acknowledge that this MOU is not inclusive of all issues, rules or programs that may arise in the future. The State of Hawaii reserves the right to enter into additional MOU to address or refine such issues, or to pursue appropriate legislation. All parties agree to at least one annual meeting to review the effectiveness of the MOU. The State of Hawaii and NWCA reserve the right to cancel this MOU upon 90 days written notice.

³ The Hawaii Area Committee is spill preparedness and planning body made up of Industry, Federal, State, and local agency representatives. The Federal On-Scene Coordinator (FOSC) coordinates the activities of the Area Committee and assists in the development of a comprehensive Area Contingency Plan (ACP) that is consistent with the National Contingency Plan (NCP).

IN RECOGNITION OF THE MUTUAL UNDERSTANDINGS DISCUSSED HEREIN; THE PARTIES
HERETO AFFIX THEIR SIGNATURES ON THIS _____ DAY OF _____ 2003.

LINDA LINGLE
Governor, State of Hawaii

JOHN HANSEN
President, North West CruiseShip Association

APPENDICES
MEMORANDUM OF UNDERSTANDING

Appendix I	List of NWCA Member Lines
Appendix II	ICCL Standards
Appendix III	Navigational Chart of Hawaiian Waters denoting 4 nm outside demarcation of the 100 fathom zone
Appendix IV	USCG Navigation & Vessel Inspection Circular and Environmental Systems Checklist
Appendix V	Uniform application procedure for EPA National ID Number as per Resource Conservation Recovery Act
Appendix VI	Uniform procedure for the application of RCRA to cruise vessels entering Hawaii
Appendix VII	Title XIV – Certain Alaskan Cruise Ship Operations, Section 1404 Limitations on Discharge of Treated Sewage or Graywater, Subsection (c) (1), (2), (3), (4)

Member Lines

Carnival Cruise Lines

Celebrity Cruises

Crystal Cruises

Holland America Line – Westours

Norwegian Cruise Line

Princess Cruises

Radisson Seven Seas Cruises

Royal Caribbean International

[Seabourn Cruises]

[World Explorer Cruises]

Silversea Cruises